

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3066
Administrative Law Judge Division
June 28, 2001

R E S O L U T I O N

RESOLUTION ALJ 176-3066. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on June 28, 2001, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3066 (06/28/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-06-003 PACIFIC GAS AND ELECTRIC COMPANY, in the 2000/2001 Revenue Adjustment Proceeding	Ratesetting	Ratesetting	YES
A01-06-014 AHMED M. NURI, AMAL ABU HWAIDI, AYMAN FADLALLA, MONTHER M. JAOUNI, Ayman Fadlalla to Sell and Transfer his one-half ownership interest in Citywide Shuttle and Limousine Service, PSC-11734, to Ahmed M. Nuri, Monther M. Jaouni and Amal Abu Hwaidi; and to Establish a Zone of Rate Freedom	Ratesetting	Ratesetting	NO
A01-06-015 CITYNET TELECOMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-06-016 POWER-FINDER WEST COMMUNICATIONS, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-06-017 CITYNET TELECOMMUNICATIONS, INC., for a Certificate of Public Convenience and Necessity to Provide Competitive Local Exchange Services on a Resale and Facilities Basis in the State of California	Ratesetting	Ratesetting	NO
A01-06-018 CITY OF LATHROP, PUBLIC WORKS DEPARTMENT, for an Order Authorizing Construction of the Lathrop Road Overcrossing over the tracks and right of way of the Union Pacific Railroad Company in the City of Lathrop, County of San Joaquin, State of California	Ratesetting	Ratesetting	NO
A01-06-019 TA'AFUA, MALO, dba STOCKTON AIRPORT SHUTTLE COMPANY, for authority to operate as a scheduled or on-call Passenger Stage corporation providing shuttle service to and from the Stockton Metropolitan Airport and all hotels in the valley as well as residential areas; and to establish a Zone of Rate Freedom [ZORF]	Ratesetting	Ratesetting	NO
A01-06-020 PACIFIC GAS AND ELECTRIC COMPANY, for Approval of Open Season Procedures for Awarding Firm Capacity on its Transmission Facilities	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-06-024 TELECOMMEZ CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-06-025 CITY OF NEWMAN, for an order authorizing the construction of the Sherman Parkway Crossing over the tracks right of way of the California Northern Railroad Company in the City of Newman, Stanislaus County, State of California	Ratesetting	Ratesetting	NO
A01-06-026 ALL AREA SHUTTLE SERVICE, INC., for authority to operate as a passenger stage corporation between points in Santa Clara, San Mateo, Alameda, and San Francisco Counties, and the San Francisco, Oakland and San Jose International Airports; and to establish a Zone of Rate Freedom.	Ratesetting	Ratesetting	NO
A01-06-027 SOUTHERN CALIFORNIA GAS COMPANY, (U-904-G) Regarding Year Seven (2000-2001) Under Its Experimental Gas Cost Incentive Mechanism and Related Gas Supply Matters	Ratesetting	Ratesetting	YES
A01-06-029 WILD GOOSE STORAGE INC., to Amend its Certificate of Public Convenience and Necessity to Expand and Construct Facilities for Gas Storage Operation	Ratesetting	Ratesetting	YES
A01-06-030 TORRES, JR., ROBERT CHARLES, dba SPLIT SECOND ENTERPRISES, for a Household Goods Carrier Permit	Adjudicatory	Ratesetting	YES
A01-06-031 CITY OF LINCOLN, for an Order authorizing it to Construct Lincoln Park Overpass over the tracks and right of way of the Union Pacific Railroad Company in the City of Lincoln, Placer County, State of California	Ratesetting	Ratesetting	NO
A01-06-032 METROPOLITAN TELECOMMUNICATIONS OF CALIFORNIA, dba METTEL, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-06-033 SAGE TELECOM, INC., for a Certificate of Public Convenience and Necessity to Provide InterLATA and IntraLATA Interexchange Services and Competitive Local Exchange Services	Ratesetting	Ratesetting	NO
A01-06-034 PACIFIC PIPELINE SYSTEM LLC, for Authorization Pursuant to Public Utilities Code Section 816 et seq. to Refinance Existing Evidence of Indebtedness and to Extend the Maturity Date thereof	Ratesetting	Ratesetting	NO
A01-06-035 TELEFYNE INCORPORATED, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-06-036 CABLE & WIRELESS USA, INC., for Approval to Withdraw its Certificate of Public Convenience and Necessity to Provide Resold Local Exchange Service and to Discontinue Provisioning Resold Local Exchange Service to its Customers in the State of California	Ratesetting	Ratesetting	YES
A01-06-037 BROADBAND OFFICE COMMUNICATIONS, INC., for Authority to Withdraw Entirely from Public Service	Ratesetting	Ratesetting	YES
A01-06-038 EAAA, INC., SINGLE BILLING SERVICES, INC., dba ASIAN AMERICAN ASSOCIATION, for Authority to Transfer Control of Single Billing Services, Inc., dba Asian American Association (U-6251-C) to EAAA, Inc.	Ratesetting	Ratesetting	NO
A01-06-039 SAN DIEGO GAS & ELECTRIC COMPANY, for Approval of Servicing Agreement between the State of California Department of Water Resources and San Diego Gas & Electric Company pursuant to Chapter 4 of the Statutes 2001 (Assembly Bill 1 of the First 2001-2002 Extraordinary Session)	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3066 (06/28/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-06-042 GROUND SYSTEMS, INC., dba THE AIRPORT BUS, to establish a Zone of Rate Freedom pursuant to Section 454.2 Public Utilities Code for its Airport Passenger fares between authorized service areas in Orange County, on the one hand, and the John Wayne Airport and the Los Angeles International Airport, on the other hand	Ratesetting	Ratesetting	NO
A01-06-043 PACIFIC GAS AND ELECTRIC COMPANY, for Approval of Leases to Allow CalPeak Power, LLC, to site Generator Plants on Utility Owned Land adjacent to Substations	Ratesetting	Ratesetting	NO
A01-06-044 SOUTHERN CALIFORNIA EDISON COMPANY, (U-338-E) for Expedited Approval of Servicing Agreement between the State of California Department of Water Resources and Southern California Edison Company pursuant to Chapter 4 of the Statutes 2001 (Assembly Bill 1 of the First 2001-2002 Extraordinary Session)	Ratesetting	Ratesetting	NO
A01-06-045 OPTICAL TELEPHONE CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO